



SACRAMENTO POLICE DEPARTMENT



220.04 EQUAL EMPLOYMENT OPPORTUNITY 12-16-02

PURPOSE

To outline procedures for reporting and investigating discrimination/harassment, equal employment, and sexual harassment complaints.

POLICY

To afford equal employment opportunity to all persons, and to prohibit illegal discrimination, harassment, or sexual harassment.

PROCEDURE

A. DEFINITIONS

1. DISCRIMINATION/HARASSMENT

- a. "Unlawful employment practice" To limit, fail or refuse to hire, or to discharge any individual in the terms, conditions, compensation or privileges of employment, or to limit, segregate, or classify an employee or applicant for employment, in any way that would deprive, tend to deprive, or adversely affect an individual's opportunity or status because of religion, color, national origin, ancestry, physical/mental disability, medical condition, pregnancy, marital status, gender, sexual orientation, or age.
- b. Examples include, but are not limited to intentionally excluding an individual from an employment opportunity because of their race or sex, or retaliatory behavior toward an individual for filing or participating in a charge of discrimination or harassment.

2. SEXUAL HARASSMENT

- a. Unsolicited and unwelcome sexual advances, requests for sexual favors, and other verbal and/or physical conduct of a sexual nature by an employee, supervisor, or manager when:
 - (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
 - (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 - (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
- b. Examples include, but are not limited to:
 - (1) Written - suggestive or obscene letters, e-mail, notes, and invitations;
 - (2) Verbal - sexually suggestive or derogatory comments, slurs or jokes, unwanted phone calls;
 - (3) Physical - includes offensive touching, assault, impeding or blocking movements, stalking;
 - (4) Visual - leering, sexually-oriented gestures, or display of sexually suggestive or derogatory objects, pictures, cartoons, posters, drawings, poems, or any such non-verbal behavior;
 - (5) Other - includes the threat or insinuation that lack of sexual favors may result in reprisal, withholding support for appointments, promotion, or transfer, rejection of probation, punitive action, change of assignments, or a poor performance report.
- c. Whether or not an alleged act constitutes sexual harassment shall be decided by looking at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred, on a case by case basis.

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B. GENERAL

1. The Department's Equal Employment Opportunity Procedures shall be based on the City of Sacramento's Equal Employment Opportunity Policy Statement, and state and federal laws.
2. The Department's Equal Employment Opportunity (EEO) goal shall be to hire, train, compensate, assign, and promote all persons on the basis of merit and fitness, without discrimination.
3. This Order shall not prohibit social relationships between employees when the social relationship has no bearing on employment decisions or benefits and it is not in violation of other provisions of this procedure. See also GO 210.07 Nepotism/Conflict of Interest.

C. EQUAL EMPLOYMENT OPPORTUNITY REGULATIONS

All job applicants and employees shall be treated fairly and without discrimination in recruitment, examination, appointment, promotion, transfer, job rotation, training, work assignment, merit increases, overtime, and related employment decisions.

1. It shall not be discriminatory and/or harassment to:
 - a. follow a seniority system as long as it is bonafide and not designed to circumvent or evade this policy.
 - b. select or reject a person based upon a bonafide occupational qualification.
2. Retaliation against an employee for filing or participating in a discrimination or sexual harassment complaint is prohibited.
3. All exempt management personnel and all supervisors shall be responsible for ensuring compliance with discrimination and sexual harassment policies in their work area. Should such problems develop, exempt managers and supervisors shall seek out solutions and ensure these problems are resolved.
4. Employees may be held personally liable for violations of state and federal law.
5. Corrective or disciplinary action shall be initiated against any employee who violates this policy.

D. COMPLAINT PROCEDURES

1. Employees who feel they have been the victim of discrimination/harassment or sexual harassment are encouraged to submit a written complaint utilizing any one of the manners listed below.
 - a. Option 1 - Police Department/City's Affirmative Action Officer (AAO). See Section E.
 - b. Option 2 - State and/or federal agencies which have enforcement authority on EEO matters. See Section F.
2. Complainants are entitled to representation at any stage of the complaint process.

E. DEPARTMENT PROCEDURES

1. Departmental complaints may be submitted to any of the following:
 - a. the employee's direct supervisor.
 - b. the employee's Captain or Division manager.
 - c. Internal Affairs Section (IAS).
 - d. the Captain, Personnel Services Division, Office of Technical Services.
 - e. the City's Affirmative Action Office at (916) 264-5270.
2. A Departmental complaint must be submitted within 60 days of the alleged incident.
3. Employees may meet with their Division Commander regarding a complaint during regularly scheduled work hours. Employees shall be granted reasonable time off to meet with the City's AAO or the Department's Equal Employment Opportunity Liaison Officer.
4. The Captain, Personnel Services Division, shall be designated as the Department's Equal Employment Opportunity Liaison Officer (EELO). The Captain's duties and responsibilities include:
 - a. The Department's continued adherence to the directions and goals of the EEO Program and these procedures.
 - b. EEO Training and Sexual Issues Training for all Department personnel.
 - c. Continued development of the EEO Program.
 - d. Liaison with the City's AAO regarding EEO investigations, review of cases, and training needs.
 - e. Liaison with employee labor groups.

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- f. Information consultation with employees regarding EEO matters.
 - g. Referral of suspected discrimination cases to Division Commanders for informal investigation and to IAS for formal investigation.
 - h. Referral of suspected sexual harassment cases to the AAO and IAS for formal investigation.
5. Notice to Equal Employment Opportunity Liaison Officer
- a. All Division Commanders shall immediately notify their direct supervisor and the EELO of alleged or suspected cases of discrimination and sexual harassment.
 - b. Supervisors who become aware of suspected cases of discrimination or sexual harassment shall utilize the chain of command to make appropriate notifications, unless extenuating circumstances exist which would necessitate their reporting directly to the EELO.
6. Investigative Responsibility
- a. All investigations, formal and informal, shall be handled as defined and outlined in RM 220.01 Internal Affairs Manual.
 - b. All sexual harassment complaints shall be investigated by the AAO and IAS.
 - c. Division Commanders shall only handle informal inquiries of discrimination if agreed upon by the complainant. If it is not possible to handle allegations informally, or if there is a need for a lengthy, complicated investigation, the matter shall be referred to the Chief of Police (COP), through the EELO.
 - d. If a discrimination complaint is investigated informally, the completed, original copy of the investigation shall immediately be forwarded to the EELO.
 - e. The EELO and the COP shall review all completed discrimination complaint investigations.
 - f. The EELO shall maintain a record of all complaints. All investigations shall be filed in IAS.
7. Case Resolution and Mediation - Informal Investigations
- a. "No Cause" Findings
 - (1) When an informal investigation by a Division Commander finds there is no reasonable cause or insufficient evidence to support a violation of this order or the applicable statutes, the Division Commander shall discuss this finding with the EELO.
 - (2) If the EELO concurs, the Division Commander shall notify the complainant and the appropriate Office Chief of the decision.
 - (3) In the event of a "no cause" finding, the complainant may request a meeting before the COP.
 - (a) If the COP does not concur with the "no cause" findings, the COP may order the appropriate remedy.
 - (b) At the conclusion of the investigation, the COP, or a designee, shall notify the complainant of the right to pursue the complaint through the appropriate city, state, or federal agencies.
 - b. "Cause" Findings
 - (1) When an informal investigation by a Division Commander finds there is reasonable cause to support the complainant's allegations, the Division Commander shall discuss this conclusion with the EELO.
 - (2) If the EELO concurs in the finding, the Division Commander may attempt to mediate the complaint to the mutual satisfaction of both the complainant and the appropriate Office Chief.
 - (3) The Division Commander shall submit any proposed mediation agreement to the EELO for review.
 - (a) If the EELO concurs with the agreement, and the actions required are within the administrative discretion of the EELO, the EELO shall sign the agreement and it shall be binding on all parties.
 - (b) If a mediation agreement requires action outside of the administrative discretion of the EELO, the agreement shall be brought before the appropriate Office Chief.

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- (c) When mediation is not possible, the investigation shall be forwarded to the Office Chief for recommendations to the COP. Based on those recommendations the COP may order any remedy consistent with Department rules, labor contracts, and the law.

8. Other procedures

Any complainant who is dissatisfied with the conclusion(s) or proposed resolution(s) in EEO complaints investigated by Police Department staff may contact other government agencies.

F. STATE AND FEDERAL AGENCIES WITH EEO ENFORCEMENT AUTHORITY

For more information about submitting complaints to state and federal agencies with EEO enforcement authority, contact:

- 1. California Department of Fair Employment and Housing (DFEH) within 365 days of the alleged incident at:
2000 O Street #120
Sacramento, CA 95814-5212
Phone: (916) 445-5523
Internet: www.dfeh.ca.gov
- 2. U.S. Equal Employment Opportunity Commission (EEOC) within 365 days of the alleged incident at:
901 Market Street, Suite 500
San Francisco, CA 94103
Phone: (415) 356-5100
Internet: www.eeoc.gov

G. PROCEDURES FOR HANDLING DISCRIMINATION COMPLAINTS FROM OUTSIDE AGENCIES

- 1. All discrimination complaints filed through compliance agencies (Human Rights Commission, California DFEH, EEOC, etc.) shall be handled by the City's AAO with assistance from the City Attorney's Office.
- 2. When a City employee receives notice from a compliance agency that a discrimination complaint has been filed, the complaint shall be forwarded immediately to the AAO. The AAO shall:
 - a. request from the compliance agency specific information regarding the nature of the complaint, if necessary.
 - b. conduct a thorough investigation of the charge(s) within the time frame requested by the compliance agency.
 - c. have access to all records which may help determine the relevant facts.
 - d. prepare a response to the charge of discrimination, stating all relevant facts and the City's contentions regarding the discrimination charge. The response shall be forwarded to the City Attorney for review.